UNITED STATES PATENT AND TRADEMARK OFFICE

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10/765,332	01/26/2004	Takashi Ikeda	393032043200	9951

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EXAMINER
AUGUSTIN, EVENS J

ART UNIT	PAPER NUMBER
3621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *10/29/2009*.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-7, 9-19* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-7, 9-19* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a) ☐ All　b) ☐ Some * c) ☐ None of:

　　　1. ☐ Certified copies of the priority documents have been received.

　　　2. ☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Acknowledgements

1.   This is in response to an amendment filed on 10/29/2009. Claims 1-7, 9-11, 13 and 15-

19 are pending.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art
> are such that the subject matter as a whole would have been obvious at the time the invention was made to
> a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

3.   Claims 1-7, 9-11, 13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Wiser et al. (U.S 6385596) ("Wiser"), in view of Kenner et al. (U.S 5956716) ("Kenner").

4.   As per claims 1-7, 9-11, 13 and 15-19, Wiser et al. disclose a computer system that

provides a secure online music distribution system that provides consumers with flexibility and

ease of use in the selection, previewing, downloading, and transporting of audio and other digital

media over the Internet, and that provides for security of the media throughout the distribution

system. The computer system comprises of client/server architecture with a clients computer

system connected with a server online music distribution system that provides consumers with

flexibility and ease of use in the selection, previewing, downloading, and transporting of audio

and other digital media over the Internet, and that provides for security of the media throughout

the distribution system (column 3, lines 5-20), doing the following:

A. (*"sending an order for requesting a purchase or a preview of a content of a music performance to a server"*)--a delivery server 118 is responsible for receiving requests from a media player (sending) 116 to preview or purchase a media data file 200 containing audio data (C9, L56-59)– *Claims 1, 5, 19*

B. (*"receiving song data from the server in response to the order, the song data being composed of performance data and order information corresponding to the performance data, performance data representing the content of the music performance and containing reproduction limiting information for limiting a reproduction state of the content of the music performance, the order information indicating at least either a purchase or a preview associated with a usage right of the content of the music performance"*) –the media player receives a media voucher, which is an object that is used to control the purchase and preview of media data files (C8, L19-20). The voucher uniquely identifies the media data file (C8, L12). The voucher also limits the use of the media voucher 300 to a single purchase or preview transaction (C8, L31-32). The aspect of using the media voucher 300 to a single purchase or preview transaction (C8, L31-32) is a right that user has. The system also uses another data object called a passport that provides the security information particular to each user of the system(C8, L43-44)

C. The prior art also teaches the aspect of a media file (C7 and C8, L1-17) – the media contains data restricts reproduction (C7, L14-16), and data that indicates the preview of a song (C7, L56-62);

D. Wiser did not explicitly describe the aspect of *"determining whether the song data has already been stored in the storage"*, however, Kenner's invention determines if the desired content is already stored locally, and rewrites or updates billing/order informationC27, L23-30. Therefore, it would have been obvious for one of ordinary skill in the art at the time of applicant's invention to combine the aspect of determining whether song info has already been downloaded and rewriting and rewriting the order information, as taught by Kenner, with Wiser's invention. The motivation for doing so would be to avoid duplicates of order information that has already been downloaded.

E. *("referring to the order information in the song data containing the performance data to be reproduced, for identifying the usage right of the content of the music performance in terms of the purchase or preview;")* – (C7, L14-16);

F. The system allows a potential user to **preview a portion of a song** (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system -*Claims 1, 5, 19;*

G. *("specifying a portion of the performance data according to the read reproduction limiting information when the identified usage right indicates the preview")* -- The system allows a potential user to **preview a portion of a song** (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system. The information about the duration of a song to be previewed tells a user that a 30 second preview of a 5-minute song will be reproduced or played for 30 seconds.

The remaining 4 minutes and 30 seconds of the songs will not be heard or reproduced. *-Claims 1, 5, 19;*

H. (*"reproducing only the specified portion of the performance data and not reproducing other portions of the content of the performance data than the specified portion"*) -- The media player is the mechanism by which the consumer plays back (*reproduced*) purchased (All)or previewed (Portion) audio data, and by which the consumer digitally records purchased media data files to a further external memory, such as a CD-Recordable, CD-RW, Mini-Disc, flash memory, or the like. The media player provides user interface controls for viewing lists of purchased and stored media data file, viewing cover and promotional art and graphics, reading lyrics and other liner information, organizing play lists and tracklists, and other music database management features (column 10, lines 1-16) *- Claims 5, 19;*

I. System limiting the reproduction/copies of content (column 3, lines 33-50, column 4, lines 42-50, column 7, lines 27-37) – *Claims 1, 5, 9;*

J. The system allows a potential user to preview a portion of a song (column 7, lines 61-62, column 11, 39-44), to be played or stored on a client system. The client system can be any number of client devices (column 5, line 48) with media player for playback and a browser (column 5, line 67) running, for example, on Apple or Microsoft operating systems (column 6, lines 8-14). The invention contains a server apparatus that store information regarding the song (for example: song title, artist, preview, and purchase) (figure 8, column 14, lines 43-45). The prior art

also stores information such duration of the preview or song, song/preview size, starting and ending times of the song/preview, fade-in and fade-out durations (usage right of content), all of which is transferred to the client system (column 15, lines 56-61) - *Claims 1, 5, 9, 16-19;*

K. The same interface allows a user to preview and purchase the same content (figures 8 and 14) to be delivered and stored on the client device (column 11, 39-44) - *Claims 1, 5, 9, 16-19;*

L. The system enables prospective buyers of an audio content to clip portions of content, with a defined start and stop time for sampling/reproduction (column 7, lines 50-55) – *Claims 1, 2, 6, 10, 19;*

M. Generation usage rights associated with the content (column 10, lines 45-47, column 11, lines 1-6) – *Claims 1, 5, 9;*

N. Allowing users to store content in their hard disks (column 11, lines 42-45) - *Claims 1, 5;*

O. The media player sets up communication channel with the specified delivery server and passes in the voucher ID and the media ID and bandwidth requirement. The media player also provides port information identifying which ports it is to receive the streamed audio data from the delivery serve (column 15, lines 33-43) - *Claims 3, 7, 11;*

P. The audio content contains a mechanism that allow is to provide different functions such as quality levels on playback, using different sampling rates and compression levels. The mechanism also includes optional functions such as

restrictions on playback and record to external devices or files (column 7, lines 4-16) – *Claims 4, 8, 12;*

Q.   An online music distribution system in accordance with the present invention includes a variety of cooperative components that communicate over a public network, preferably the Internet. These components include a content manager, one or more delivery servers, a media data file system and media information database. HTTP servers facilitate Internet communications by the system. Any number of individual purchasers use client computer systems with Web browsers and media players (column 3, lines 9-19) – *Claim 13;*

R.   Server is responsible for receiving requests from a media player to preview or purchase a media data file containing audio data (column 9, lines 56-58) - *Claim 13;*

S.   Server transmitting the requested media file to the user (column 9, lines 60-67) - *Claim 13;*

T.   The media files transmitted the user contains descriptive text, such as title, artist, lyrics, and liner notes, promotional art image data, and cover art image data (column 6, lines 59-62), and also contains mechanism to ensure usage rights are executed (column 7, lines 4-16) – *Claim 13;*

U.   Once the audio is has been purchased, the server gives the user the appropriate licensing and updated its records accordingly (column 19, lines 11-49) - *Claim 14*

V.   The system enables prospective buyers of an audio content to clip portions of content, with a defined start and stop time for sampling/reproduction (column 7,

lines 50-55), The media player sets up communication channel with the specified

delivery server and passes in the voucher ID and the media ID and bandwidth

requirement. The media player also provides port information identifying which

ports it is to receive the streamed audio data from the delivery serve (column 15,

lines 33-43). The audio content contains a mechanism that allow is to provide

different functions such as quality levels on playback, using different sampling

rates and compression levels. The mechanism also includes optional functions

such as restrictions on playback and record to external devices or files (column 7,

lines 4-16) – *Claim 15;*

Conclusion

5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to EVENS J. AUGUSTIN whose telephone number is 571-272-

6860. The examiner can normally be reached on 10am - 6pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Andrew Fischer can be reached on (571)272-6779.

/Evens J. Augustin/
Evens J. Augustin
January 22, 2010
Art Unit 3621